



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

LNO- 172996

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**PRELIMINARY RECITALS**

On March 23, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration - MECA in regard to the docketing of a lien for a past due child care public assistance debt. The hearing was held on April 20, 2016, at Milwaukee, Wisconsin

The issue for determination is whether the respondent correctly imposed a lien against the petitioner to pursue recovery of a past-due child care public assistance debt of \$4,465.45

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Early Care Administration  
- MECA  
Department of Children And Families  
1220 W. Vliet St 2nd Floor, 200 East  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She was receiving child care benefits in the period of October 19, 2010 – February 28, 2011.
2. On November 18, 2011, Milwaukee Enrollment Services, by its agents, issued a Child Care Overpayment Notification to the petitioner informing her it had determined that she had been overpaid \$4,493.84 in Child Care benefits in the period of October 19, 2010 – February 28, 2011. Exhibit 2, p. 1
3. On December 2, 2011, a Repayment Agreement was mailed to the petitioner asking her to agree to repay the overpayment described in Finding #2, above; but the agency received no executed agreement. *Id.* At p. 5.
4. The petitioner was issued dunning letters on that debt three times, on January 3, 2012, February 2, 2012, and March 2, 2012. *Id.* At p. 11.
5. Respondent's records reflect that payments totaling \$38.39 have been applied to the outstanding balance to date. *Id.* At p. 14.
6. On February 27, 2016, the Department of Children and Families issued a Notice of Warrant Docketed in Milwaukee County to the petitioner informing her that the Department had acted to impose a lien of public record against her in the total amount of \$4,465.45, arising from the Child Care benefits overpayments of October 19, 2010 – February 28, 2011. *Id.* At p. 18.
7. On March 23, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the imposition of the lien. Exhibit 1.

### **DISCUSSION**

There is no jurisdiction if a request for a hearing is not filed timely. A request for a hearing concerning the docketing of a warrant is untimely if it is not filed within 20 days from the date on the notice. Wis. Admin. Code § DCF 101.23(9)(a)5; see also, Wis. Stat. § 49.195(3s). A hearing request is considered filed on the date of actual receipt by DHA, or the date of the postmark, whichever is earlier. Wis. Admin. Code § HA 3.05(3)(c). A hearing request that is not filed within the 20-day time period must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e).

In this case, the notice was dated February 27, 2016. Petitioner did not request a hearing until March 23, 2016. This means it was filed 24 days after the notice date, and is therefore outside of the allowed 20-day time period. Accordingly, petitioner's hearing request is untimely and no jurisdiction exists for DHA to consider the merits of petitioner's appeal.

In addition, even if petitioner's request for a hearing had been filed in a timely manner, a hearing concerning the docketing of a warrant is limited to questions of prior payment of the debt that DCF is proceeding against and mistaken identity of the debtor. Wis. Admin. Code § DCF 101.23(9)(a)5; See also, Wis. Stat. § 49.195(3s). The petitioner has not raised an issue of un-credited prior payments on this debt, and the petitioner did not contest that she is the person the agency found owed the debt. She would not prevail on either point even were I to reach the merits, which I do not.

As a side-note to the petitioner, she also tried to raise an attack on the merits of the Child Care Overpayment determinations of October 19, 2010 – February 28, 2011, in this action. Jurisdiction is limited, as noted above, when appeal liens. It is uncontested that she received notification of these

overpayment determinations. The respondent's representative noted that its case notes reflect that the petitioner had indicated that she would submit documentation averring that her children were not in attendance on the dates in question; however, no such documentation was ever submitted. In any event, such overpayment determinations must be appealed within 45 days of these notices. See, Wis. Admin. Code § HA 3.03(3). The petitioner did not file any other appeal prior to the instant March 23, 2016, appeal. She has "sat" on her right to contest these overpayment determinations, and lost those rights.

### **CONCLUSIONS OF LAW**

Jurisdiction is not present to reach the merits of the appeal contesting the imposition of a lien because petitioner's request for a hearing is untimely.

**THEREFORE, it is**

### **ORDERED**

That the petition for review herein be, and the same hereby is, dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

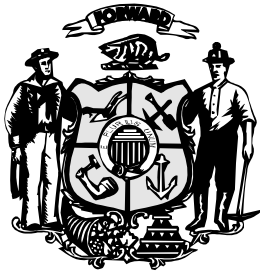
### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 7th day of July, 2016

\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 7, 2016.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit